

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Trademark Application Serial No. 76/499,086

Filed: March 20, 2003

Trademark: COBRA DESIGN

05-17-2004

U.S. Patent & TMO/TM Mail Rcpt Dt. #22

Published in the *Official Gazette* at TM 345 on November 18, 2003

FORD MOTOR COMPANY )  
 )  
 Opposer, )  
 )  
 v. ) Opposition No. \_\_\_\_\_  
 )  
 HASBRO, INC. )  
 )  
 Applicant. )

CERTIFICATION UNDER 37 C.F.R. § 1.10

I hereby certify that this NOTICE OF OPPOSITION and any attachments referred to as attached therein are being deposited on May 17, 2004 under Express Mail Label No. EV 419313298 US with the United States Postal Service in an envelope as "Express Mail Post Office to Addressee" addressed to: Box TTAB- FEE, Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513.

Krisanne Schmidt  
Print Name of Person Signing

  
Signature

NOTICE OF OPPOSITION

BOX TTAB - FEE  
Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, Virginia 22202-3513

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Sir:

FORD MOTOR COMPANY ("FORD"), a Delaware corporation with a place of business at The American Road, Dearborn, Michigan 48121, believes that it is and will continue to be damaged by the Applicant's registration of the mark "COBRA DESIGN" "toy action figures, toy vehicles and accessories for use therewith" in Class 28 and hereby opposes the same.

As grounds for opposition, the Opposer alleges as follows:

1. The Applicant, HASBRO, INC., is seeking to register the mark “COBRA DESIGN” as a trademark for “toy action figures, toy vehicles and accessories for use therewith” in Class 28, as is evidenced by the publication of the mark in the *Official Gazette* at Page TM 345 of the November 18, 2003 issue. This application was filed on March 20, 2003.

2. The Opposer, FORD, designs, develops, manufactures, services, repairs, and sells automobiles and parts therefor and related products and services, and licenses some of its marks for use on toy vehicles.

3. The Opposer has used the mark “COBRA” from a date at least as early as 1962 in connection with its vehicles.

4. The Opposer has used the mark since at least as early as 1968 on toys, including toy vehicles.

5. The Opposer is the owner of U.S. Trademark Registration No. 2,022,759 for the mark “COBRA DESIGN” for toy replicas of historic automobiles and hobby kits for the construction of such replicas in International Class 28. This registration issued January 7, 1997, and is incontestable, valid and subsisting, uncanceled and unrevoked.

6. The Opposer is the owner of U.S. Trademark Registration No. 2,022,758 for the mark “COBRA” for toy replicas of historic automobiles and hobby kits for the construction of such replicas in International Class 28. This registration issued December 17, 1996, and is incontestable, valid and subsisting, uncanceled and unrevoked.

7. The Opposer is the owner of U.S. Trademark Registration No. 2,240,572 for the mark “COBRA DESIGN” for toys, namely, miniature models of vehicles, toy vehicles,

hobby kits for toy vehicles, hobby kits for the construction of toy vehicles, radio controlled toy vehicles, collectable toy cars and Christmas ornaments in International Class 28. This registration issued April 20, 1999, and is valid and subsisting, uncanceled and unrevoked.

8. The Opposer is the owner of U.S. Trademark Registration No. 807,185 for the mark "COBRA" for passenger automobiles and components thereof in International Class 12. This Registration issued April 19, 1986, and is incontestable, valid and subsisting, uncanceled and unrevoked.

9. The Opposer is the owner of U.S. Trademark Registration No. 1,562,071 for the mark "COBRA" for automobile engines and engine parts in International Class 12. This registration issued October 24, 1989, and is incontestable, valid and subsisting, uncanceled and unrevoked.

10. The Opposer owns additional U.S. Trademark Registrations for marks incorporating "COBRA" and/or "COBRA DESIGN" in a number of classes, including 12, 28, 6, 9, 14, 25, 26, and 27.

11. The Opposer has expended considerable effort and expense in promoting its "COBRA" and "COBRA DESIGN" marks and the goods associated with these marks, with the result that the purchasing public has come to know and recognize the products of the Opposer by this mark. The Opposer has an exceedingly valuable good will established in its "COBRA" and "COBRA DESIGN" marks.

12. In 1996, Opposer and Applicant entered into a Trademark Agreement, whereby they consented to certain co-existing registrations. In that Agreement, Applicant agreed not to use "COBRA" standing alone in connection with toy vehicles, and Opposer consented to

Applicant's use and registration of certain specific composite marks which incorporated the term "COBRA," but which did not include the subject of Application Serial No. 76/499,086.

13. There is no issue as to priority. The Opposer used the mark "COBRA" and "COBRA DESIGNS" long prior to the alleged use and filing date of the application Serial No. 76/499,086.

14. The mark for which the Applicant seeks registration, namely "COBRA DESIGN" is confusingly similar to Opposer's "COBRA" and "COBRA DESIGN" marks and both parties' marks are used on toys, namely, toy vehicles.

15. Since the mark and goods as described in the application are closely related to the Opposer's mark and goods/services, confusion and deception as to the origin of the Applicant's goods bearing the mark would occur, all to the damage and detriment of the Opposer. Such use would cause confusion in the trade resulting in damage and injury to the Opposer.

16. The Applicant's use or registration of the mark "COBRA DESIGN" in connection with its designated goods, is likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of the Applicant with the Opposer, or as to the origin, sponsorship or approval of the Applicant's services by the Opposer.

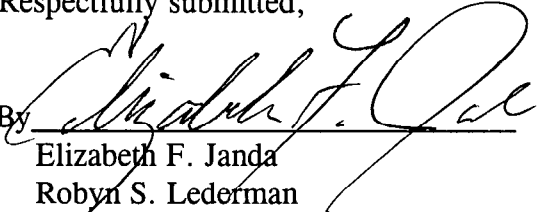
17. If the Applicant were granted the registration herein opposed, it would obtain at least a *prima facie* exclusive right to use of the "COBRA DESIGN" mark in connection with its products and services. Such registration would be a source of injury and damage to the Opposer.

WHEREFORE, the Opposer, FORD MOTOR COMPANY, prays that Application Serial No. 76/499,086 for the mark "COBRA DESIGN" be rejected, denied and refused.

A duplicate copy of this Notice of Opposition is enclosed pursuant to 37 C.F.R. § 2.104(a). The filing fee of \$300 and any additional fees as may be required under 37 C.F.R. § 2.6(a)(17), are to be charged to Ford Motor Company Account No. 06-1510. A third copy of the Notice of Opposition is enclosed for accounting purposes.

Respectfully submitted,

By

  
Elizabeth F. Janda  
Robyn S. Lederman  
Attorneys/Agents for Applicant

Date: May 17, 2004

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Our File: FMCT 15355 OC